

§ 1.897-4AT

26 CFR Ch. I (4-1-04 Edition)

June 19, 1980, and January 30, 1985, may retroactively make such an election pursuant to the requirements of this section. Such election must be delivered to the Director, Foreign Operations District, by March 1, 1985.

(3) *Interests in corporation disposed of prior to publication.* Where interests in a corporation were disposed of before January 3, 1984, the requirement of paragraph (d)(2) of this section may be met, notwithstanding the requirement of paragraph (d)(3), by paying a tax that is based upon a reasonable estimate of the gain upon the prior dispositions. Such estimate must be based on all facts and circumstances known to, and ascertainable through the exercise of reasonable diligence by, the corporation seeking to make the election.

(h) *Effective date.* The requirement in paragraph (c)(1)(i) of this section that the statement making the section 897(i) election contain the identifying number of the foreign corporation (in all cases) is applicable November 3, 2003.

(Sec. 897 (94 Stat. 2683; 26 U.S.C. 897), sec. 6011 (68A Stat. 732; 26 U.S.C. 6011) and sec. 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[T.D. 7999, 49 FR 50713, Dec. 31, 1984; 50 FR 12531, Mar. 29, 1985; T.D. 8113, 51 FR 46629, Dec. 24, 1986; T.D. 9082, 68 FR 46083, Aug. 5, 2003]

§ 1.897-4AT Table of contents (temporary).

§ 1.897-5T Corporate distributions (temporary).

- (a) Purpose and scope.
- (b) Distributions by domestic corporations.
 - (1) Limitation of basis upon dividend distribution of U.S. real property interest.
 - (2) Distributions by U.S. real property holding corporation under generally applicable rules.
 - (3) Section 332 liquidations of U.S. real property holding corporations.
 - (i) General rules.
 - (ii) Distribution to a foreign corporation under section 332 after June 18, 1980, and before the repeal of the General Utilities doctrine.
 - (iii) Distribution to a foreign corporation under section 332 and former section 334(b)(2) after June 18, 1980.
 - (iv) Distribution to a foreign corporation under section 332(a) after July 31, 1986 and after the repeal of the General Utilities doctrine.
 - (A) Liquidation of domestic corporation.

(B) Liquidation of certain foreign corporations making a section 897(i) election.

(v) Transfer of foreign corporation stock followed by a section 332 liquidation treated as a reorganization.

(4) Section 897(i) companies.

(5) Examples.

(6) Section 333 elections.

(i) General rule.

(ii) Example.

(c) Distributions of U.S. real property interests by foreign corporations.

(1) Recognition of gain required.

(2) Recognition of gain not required.

(i) Statutory exception.

(ii) Section 332 liquidations.

(A) In general.

(B) Recognition of gain required in certain section 332 liquidations.

(iii) Examples.

(3) Limitation of gain recognized under paragraph (c)(1) of this section for certain section 355 distributions.

(i) In general.

(ii) Example.

(4) Distribution by a foreign corporation in certain reorganizations.

(i) In general.

(ii) Statutory exception.

(iii) Regulatory limitation on gain recognized.

(iv) Examples.

(5) Sales of U.S. real property interests by foreign corporations under section 337.

(6) Section 897(l) credit.

(7) Other applicable rules.

(d) Rules of general application.

(1) Interests subject to taxation upon later dispositions.

(i) In general.

(ii) Effects of income tax treaties.

(A) Effect of treaty exemption from tax.

(B) Effect of treaty reduction of tax.

(C) Waiver of treaty benefits to preserve nonrecognition.

(iii) Procedural requirements.

(2) Treaty exception to imposition of tax.

(3) Withholding.

(4) Effect on earnings and profits.

(e) Effective date.

§ 1.897-6T Nonrecognition exchanges applicable to corporations their shareholders, and other taxpayers, and certain transfers of property in corporate reorganizations (temporary).

(a) Nonrecognition exchanges.

(1) In general.

(2) Definition of nonrecognition provision.

(3) Consequence of nonapplication of nonrecognition provisions.

(4) Section 355 distributions treated as exchanges.

(5) Section 1034 rollover of gain.

(i) Purchase of foreign principal residence.

(ii) Purchase of U.S. principal residence.

(6) Determination of basis.

(7) Examples.

Internal Revenue Service, Treasury

§ 1.897-5T

- (8) Treatment of nonqualifying property.
 - (i) In general.
 - (ii) Treatment of mixed exchanges.
 - (A) Allocation of nonqualifying property.
 - (B) Recognition of gain.
 - (C) Treatment of other amounts.
 - (iii) Example.
- (9) Treaty exception to imposition of tax.
 - (b) Certain foreign to foreign exchanges.
 - (1) Exceptions to the general rule.
 - (2) Applicability of exception.
 - (3) No exceptions.
 - (4) Examples.
 - (5) Contribution of property.
 - (c) Denial of nonrecognition with respect to certain tax avoidance transfers.
 - (1) In general.
 - (2) Certain transfers to domestic corporations.
 - (i) General rule.
 - (ii) Example.
 - (3) Basis adjustment for certain related person transactions.
 - (4) Rearrangement of ownership to gain treaty benefit.
 - (d) Effective date.

§ 1.897-7T Treatment of certain partnership interests as entirely U.S. real property interests under section 897(g) (temporary).

- (a) Rule.
- (b) Effective date.

§ 1.897-8T Status as a U.S. real property holding corporation as a condition for electing section 897(i) pursuant to § 1.897-3 (temporary).

- (a) Purpose and scope.
- (b) General conditions.
- (c) Effective date.

§ 1.897-9T Treatment of certain interests in publicly traded corporations, definition of foreign person, and foreign governments and international organizations (temporary).

- (a) Purpose and scope.
- (b)
- (c) Foreign person.
- (d) Regularly traded.
- (e) Foreign governments and international organizations.
- (f) Effective date.

[T.D. 8198, 53 FR 16217, May 5, 1988]

§ 1.897-5 Corporate distributions.

(a) through (d)(1)(iii)(E) [Reserved]. For further guidance, see § 1.897-5T(a) through (d)(1)(iii)(E).

(d)(1)(iii)(F) Identification by name and address of the distributee or transferee, including the distributee's or transferee's taxpayer identification number;

(d)(1)(iii)(G) through (d)(4) [Reserved]. For further guidance, see § 1.897-5T(d)(1)(iii)(G) through (d)(4).

(e) *Effective date.* This section is applicable to transfers and distributions after November 3, 2003.

[T.D. 9082, 68 FR 46083, Aug. 5, 2003]

§ 1.897-5T Corporate distributions (temporary).

(a) *Purpose and scope.* This section provides rules concerning the recognition of gain or loss and adjustments to basis required with respect to certain corporate distributions that are subject to section 897. Paragraph (b) of this section provides rules concerning such distributions by domestic corporations, including distributions under section 301, distributions in redemption of stock, and distributions in liquidation. Paragraph (c) sets forth rules concerning distributions by foreign corporations, including distributions under sections 301 and 355, distributions in redemption of stock, and distributions in liquidation. Finally, various rules generally applicable to distributions subject to this section, as well as to transfers subject to § 1.897-6T, are set forth in paragraph (d). The rules contained in this section are also subject to the tax avoidance rules of § 1.897-6T(c).

(b) *Distributions by domestic corporations—(1) Limitation of basis upon dividend distribution of U.S. real property interest.* Under section 897(f), if any domestic corporation (distributing corporation) distributes a U.S. real property interest to a shareholder that is a foreign person (distributee) in a distribution to which section 301 applies, then the basis of the distributed U.S. real property interest in the hands of the foreign distributee shall be determined in accordance with the provisions of section 301(d), and shall not exceed—

(i) The adjusted basis of the property before the distribution in the hands of the distributing corporation, increased by

(ii) The sum of—

(A) Any gain recognized by the distributing corporation on the distribution, and